

FORCED LABOR: ITS INTERNATIONAL REGULATION

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FORCED LABOR: EXAMPLES AND RESULTS

A LARGE part of the world today, including the greater part of Africa and important territories in Asia, Oceania and Australasia, is under the control of colonial powers. From the commercial standpoint the importance of these colonial areas seems to be increasing. Many of them possess raw materials of a mineral and agricultural nature, of value to industrialized countries; all of them provide markets where the manufacturers of the West may be sold.

As far as colonies located in the tropics are concerned, economic development as a rule can take place only by means of native labor. In the past, such labor, in vast areas of Africa at least, has been inadequate for European needs. In many parts of Africa the native population has failed to increase during the European occupation—if it has not actually declined. Likewise, three-quarters of the entire population of the Pacific islands are said to have disappeared between 1860 and 1890.¹ Not only are native populations sparse, but the people are unfamiliar with the wage-earning system as it exists in industrialized countries. Native wants are few; their food and clothing can be secured with very little exertion. Natives have no ambition to accumulate wealth in the Western sense; left to themselves, few of them would voluntarily enter the continuous and exacting employment of the Western industrial system. In view of the European demands upon the tropics, the labor problem has become one of the outstanding economic and social problems confronting the colonial world.

With the remarkable increase in the export of American capital, this problem may

become of importance to the United States. A French writer, Professor Henry Labouret, has recently declared that the growing economic interests of the United States will lead it to demand a revision of the territorial settlement in Africa.² He explains that "during the last few years, American capitalists have gained a preponderant position in Belgian and British enterprises in Africa; they are attempting to acquire an analogous position in French business concerns in West Africa, as the activities and efforts of the electrical and mining companies show in Guinea, in the Upper Volta and elsewhere. . . ."

WHAT IS FORCED LABOR?

Confronted by an inadequate labor supply, caused either by the sparsity of population or the reluctance of workers to enter foreign employment, many colonial governments have made use of forced labor, either for government or private purposes. Forced or compulsory labor is defined as "all work or service which is exacted from any person under the menace of any penalty for its non-performance and for which the worker does not offer himself voluntarily."³ Compulsory labor takes many forms. In perhaps the majority of colonies, governments utilize such labor for public works and services. In French and Dutch colonies it is exacted in the form of a labor tax upon native populations. Under the French prestation tax, natives may be required to work for a period ranging from three days in Algeria to sixteen days in Indo-China.⁴ In principle the work is exacted only for local public pur-

2. H. Labouret, "Le Président Hoover et l'Afrique," *L'Afrique Française*, January 1929, p. 49. Cf. p. 425.

3. I. L. O., *Forced Labour, Questionnaire I*, p. 54.

4. *Ibid.*, p. 165.

1. *Forced Labour, Report and Draft Questionnaire*, International Labour Conference, 12th Session, 1929 (hereafter cited as I. L. O., *Forced Labour*), p. 235.

poses.⁵ In the Dutch East Indies the government may exact labor from natives up to a maximum varying from thirty to forty days a year.⁶ During 1926 the government actually exacted labor aggregating more than 14,000,000 days, or an average of 19.5 days per worker. According to the International Labour Office, "by far the greater part of the compulsory labor levied from the population of the Dutch East Indies is unpaid."⁷

COMPULSORY LABOR FOR PUBLIC PURPOSES

Many British colonies also authorize the imposition of unpaid compulsory labor, for a period in some cases of four weeks out of the year, for the benefit of the community. This type of compulsory work for local purposes is usually called communal labor.

Paid compulsory labor is exacted in many colonies for general public purposes, such as railway construction. In several territories in British East Africa the government may conscript natives for not more than sixty days a year for government portage or for the construction of public works. But in Kenya and Uganda such labor may not be imposed, except in the case of portage, without the prior consent of the Secretary of State for the Colonies. In one case at least such sanction has been refused.⁸

In other colonies in Africa and elsewhere few restrictions seem to have been imposed by law in regard to the use of compulsory labor for general public purposes. In British West Africa, compulsion may be imposed simply by administrative regulation.⁹ The

5. In French colonies certain classes may be exempt from the labor tax in return for a money payment; and in Senegal, Togo and the Cameroons all natives may thus secure exemption. In French West Africa it is charged that prestation labor has been used for extra-legal purposes and that laborers have been obliged to work far beyond the time-limit fixed by the prestation decree. In French Equatorial Africa it is charged that despite orders to the contrary, women are used in prestation work (R. L. Buell, *The Native Problem in Africa*, Vol. I, p. 1039; A. Gide, *Voyage au Congo*, p. 94). M. Poulaine, an editor of *Le Temps*, declares: "The State abuses prestations and it is the State which, by its exactions, has caused the depopulation of our colonies in Equatorial Africa." (*Comment Nous Comporter Envers les Populations Noires de Notre Domaine Africain*, Comité National d'Etudes Sociales & Politiques, March 18, 1919, p. 32.)

6. Constitution act of 1925.

7. I. L. O., *Forced Labour*, p. 107; cf. G. Angoulvant, *Les Indes Néerlandaises*, p. 355.

8. Buell, *op. cit.*, Vol. I, p. 372. This sanction is not required in the neighboring mandate of Tanganyika, but the Governor of Tanganyika has stated that before using forced labor for public works he will first ask the approval of the Colonial Office (I. L. O., *Forced Labour*, p. 43). Actually, forced labor in Tanganyika is nearly non-existent. Cf. footnote 46.

9. For the system of "political labor" in Nigeria, cf. Buell, *op. cit.*, Vol. I, p. 658. In July 1929 the British Parliament enacted a colonial development act providing for a loan of \$50,000,000; as a result of parliamentary debate, the govern-

same system has been followed also in the Belgian Congo and in the French colonies. Thus, to recruit labor for the widening of the Lower Congo Railway, the Belgian government conscripted annually about 14,000 natives, some of whom were brought down the Congo River from a thousand miles in the interior. Officially labor was recruited by "voluntary" persuasion, but it was generally recognized that in reality compulsion was used. In April 1926 the Minister of Colonies asked that such conscription, being for a public purpose, should be legalized. But the Belgian Cabinet declined to legalize it, on the ground that compulsion was contrary to Belgian principles.¹⁰

In 1926 the French government enacted legislation establishing labor armies in Madagascar and French West Africa as part of the system of military conscription in these colonies. Natives eligible for conscription are divided into two "contingents," the first being obliged to undergo the three years' military service, the second being exempt from such service.¹¹ But in 1926 it was decreed that natives of the second contingent should be placed in a labor army. That is, during three years they may be called upon to labor on public works. No other government seems to have gone so far in exacting compulsory labor for public purposes.¹²

THE CONGO-OCEAN RAILROAD

One of the outstanding examples of the use of forced labor for public purposes in recent years has been in connection with the construction of a railway linking up Brazzaville, the capital of French Equatorial Africa, with the sea—a distance of about 360 miles. While no decree was enacted authorizing the use of compulsory labor, the Governor-General in 1925 issued an *arrêté* providing that 10,000 natives should be recruited annually for work on the railway. Such natives were brought from the semi-arid interior districts of the Chad and Ubangi-Shari. Many of them found it diffi-

ment accepted an amendment to the effect that no children under 12 could be employed in connection with works constructed by these funds, nor could compulsory labor be used.

10. Buell, *op. cit.*, Vol. II, p. 506.

11. *Ibid.*, Vol. II, Chapter 64.

12. A decree of June 3, 1906 established such an army in the Congo Free State, but was not used after 1909. *Ibid.*, Vol. II, p. 503.

cult to adapt themselves to the humid climate and to the strange food of the Lower Congo. As a result, many died. Toward the close of a debate in the Chamber of Deputies in 1929 the Minister of Colonies declared that the death rate among workers on the Congo-Ocean railway was 303 per thousand—a figure which declined to 191 per thousand in 1928.¹³ This death rate, for a labor camp, is probably the highest in the world. M. Robert Poulaine, an editor of the conservative *Temps*, declared after a visit to Africa that "in order to make 140 kilometres of railroads in four years the French government has wasted 17,000 human lives. Seventeen thousand corpses strew the Congo-Ocean roadbed. The Belgians have, under equally severe climatic conditions, constructed in less than four years a railroad of 1,123 kilometres, which has not cost them 3,000 lives. . . ."¹⁴ The French government has attempted to bring about reforms.

Generally speaking, it seems that, with the possible exception of the Dutch government, the French government makes use of compulsory labor for public purposes to a larger extent, perhaps, than any other important colonial power.

ROAD WORK IN LIBERIA

It has been charged that the government of Liberia, an independent Negro republic, makes use of compulsory unpaid labor for road construction and other public purposes.¹⁵ It has been charged that in some cases natives are compelled to work nine months out of the year and that they are obliged to furnish their own food and tools. At the International Labour Conference of 1929 the Liberian delegate denied such charges.¹⁶ He asserted that all such labor

13. For the debate of June 14, 1929, cf. *Journal Officiel*, June 15, 1929, p. 2062. Cf. also A. Londres, *Terres d'Ebène*, p. 257. On December 4, 1928 the Minister of Colonies declared that at one time the mortality among such workers had reached 670 per thousand (I. L. O., *Forced Labour*, p. 250).

14. *Comment Nous Comporter Envers les Populations Noires de Notre Domaine Africain*, Comité National d'Etudes Sociales & Politiques, March 18, 1929, p. 33.

15. Cf. Buell, *op. cit.*, Vol. II, p. 748; also T. J. Faulkner, interview with P. D. Stong, *The World* (N. Y.), August 11, 1929; and I. L. O., *Forced Labour*, p. 136.

16. *Provisional Record*, No. 22, June 17, 1929, p. 386. He declared that although Buell's *Native Problem in Africa* was "documented," the author did not seem to be well aware of actual conditions of native labor in Liberia. As proof that government labor was paid, he declared that in 1928 the Liberian government expended \$54,500,000 on public works. President King's annual message of October 18, 1928 (p. 63) states that on roads and schools there would be expended during the next year \$54,500 (instead of \$54,500,000). For the commission to Liberia, cf. p. 415.

was paid and that road construction was carried out by "companies working freely and voluntarily without any constraint."

COMPULSORY LABOR FOR PRIVATE PURPOSES

While many colonial governments impose compulsory labor for public purposes, only a few colonies have authorized compulsory labor for private employers. Among these were the Portuguese colonies, where until recently regulations declared that if a native declined to work the authorities might hand him over to a private employer.¹⁷ Following criticisms of this system, which resulted in widespread compulsion for private profit, and the signature of the Slavery Convention of 1926,¹⁸ the Portuguese government enacted decrees in 1926 and 1928, the latter of which declared that the government did not permit any kind of compulsory labor for private ends; it added, however, that "it does not deny the moral obligation" imposed on natives "of obtaining by work their means of subsistence, thus contributing to the general interest of humanity."¹⁹

While no government seems generally to legalize compulsory labor for private employers, a number of colonial administrations illegally recruit such labor or bring so-called "moral persuasion" to bear upon natives to accept European employment. Such a policy was followed in Kenya until 1921 when the British government ordered that beyond placing information at the disposal of employees and employers government officials would "in the future take no part in recruiting labor for private employment." Nevertheless, in 1926 a conference of the Governors of the five British East African territories declared that the native should be "given to understand that the government expects him to do a reasonable amount of work, either in production in his own Reserve or in labor for wages outside it. . . . In areas where the first alternative

17. Labor regulations of 1914. *Compilação de todas as disposições legais em vigor referentes a indígenas . . .*, Lourenço Marques, 1919, p. 73.

18. Cf. the report of Professor E. A. Ross, *Employment of Native Labor in Portuguese Africa*, 1925, also *Some Observations on Professor Ross' Report*, a reply by the Portuguese government.

19. "Código do Trabalho dos Indígenas nas colônias portuguesas de África," *Diário do Governo*, December 6, 1928, Decree No. 16199. For the 1926 decree, cf. Buell, *op. cit.*, Vol. I, p. 31. Certain "prazo" holders may still collect labor taxes from natives in Portuguese East Africa. In Java there are also certain private estates which have the traditional right to exact labor (I. L. O., *Forced Labour*, p. 203, 215). The Dutch government is progressively abolishing these rights.

is not within his reach, the native should be definitely encouraged to go out to labor.”²⁰

The Colonial Charter of the Belgian Congo declares that no one may be compelled to work for the profit of individuals. Nevertheless, because of excessive mining developments, the Belgian Congo, until recently at least, followed the policy of government recruiting for labor for private interests. As a result of general criticism, however, the Belgian government issued instructions in December 1925 ordering administrative officials to stop the “direct recruiting of labor for private employers.”

LIMITATION OF RECRUITING

In the same year a labor commission appointed by the Belgian government expressed the opinion that because of the harmful effects of the excessive recruiting of labor, not more than 5 per cent of the able-bodied men should be taken from a native community.²¹ In March 1928 an Advisory Committee on Labor in Brussels decided that further steps should be taken to slow up industrial development in view of the existing drain on native labor. It recommended that each province of the Congo be divided into zones and that in those zones where the demand for labor had already reached the limit further concessions to Europeans should not be granted for a certain number of years and no further recruiting should be allowed.²²

While the 1928 committee advocated the suspension of concessions in certain zones, it did not believe that the government should abstain from participation in labor recruiting. It declared that the government officials “should favor by every honest and legal means the recruiting of workers necessary for those private enterprises whose efforts increase the wealth [*patrimoine*] of the colony. . . .”²³

According to this announcement, it would seem that the Belgian Congo is still committed to the policy of “encouragement” and

20. Buell, *op. cit.*, Vol. I, p. 553.

21. An additional 5 per cent might be recruited for work within a radius of about two days' march from the native village. Fifteen per cent more might be employed by European enterprises in the vicinity of their homes for the production of foodstuffs and other purposes. *Ibid.*, Vol. II, p. 547.

22. *Le Problème de la Main-d'Œuvre au Congo Belge*, 1928, p. 35 ff.

23. *Ibid.*, p. 47.

“moral persuasion” as far as labor for private enterprise is concerned. In 1929 the Catholic Bishops of the Congo made a joint protest against the “excessive recruitment” of labor.

While there is no legislation authorizing compulsory labor for private employers in French colonies, there has been government recruiting for such purposes in French West Africa, especially for the cotton plantations in the French Sudan and wood-felling on the Ivory Coast.²⁴

The attitude of some Frenchmen toward this subject is shown by the recommendation of the Association of Colonial Sciences in 1927 in favor of the principle of the obligation of labor in the interest of natives.²⁵

A semi-official body, the Economic Council of Colonies, recently declared that while forced labor should be prohibited, the first duty of the colonial administration should be to expand “the notion of the necessity of labor. . . .”²⁶ It also declared that the government should “intervene” in recruiting for private enterprise.²⁷

As to the general French attitude, Professor Labouré writes: “It is remarkable that, at the very time when obligatory labor is condemned at Geneva and abandoned by Portugal, its justification should be discussed in France by various economic groups.”²⁸

As the above paragraphs show, the first and most important indirect means of obtaining forced labor is that of government persuasion. Other indirect forms are the imposition of heavy taxes which natives cannot pay without entering into European employment²⁹ and the alienation of land to Europeans, so that natives, lacking the basis for an independent economic existence, must accept European employment—a situation which exists in the Union of South Africa

24. Buell, *op. cit.*, Vol. II, p. 28. Londres, *op. cit.*, p. 163.

25. Goudal, “La question du travail forcé,” *Révue Générale de Droit International Public*, May-June, 1929, p. 281.

26. France, Senate, *Ministère des Colonies, Rapport*, No. 760, 1928, M. A. Lebrun (Budget), p. 21.

27. Governor-General Carde has declared that in French West Africa four-fifths of the male natives should remain in their villages; this would leave about 380,000 men available for work elsewhere, or, deducting 35 per cent for those physically unfit, 247,000. Two hundred thousand of these are already under employ. *Ibid.*, p. 14.

28. “Les indigènes et le travail forcé,” *L'Afrique Française*, April, 1929, p. 176.

29. For the situation in Northern Rhodesia, cf. Buell, *op. cit.*, Vol. I, p. 241.

and to a lesser extent in British Kenya. In some colonies, moreover, natives may be arrested on the charge of vagrancy and forced to perform labor.³⁰

FORCED LABOR IN LIBERIA

Serious charges in regard to forced labor for private employers have been made in regard to Liberia. Thus it is declared that high officials in the Liberian government profit from the compulsory recruiting of Liberian laborers for work on the cocoa plantations in the Spanish island of Fernando Po. It is charged that the Spanish authorities pay a fee of \$50 for each boy thus recruited, and that this fee is divided between the shipping agent, the recruiter and various high government officials, at Monrovia and elsewhere.³¹ Misgivings have also been expressed in regard to the ultimate effects of the Firestone rubber plantations. Commenting on the fact that the Firestone Company pays a fee to the chiefs and to the Liberian Labour Bureau for each man recruited, the International Labour Office at Geneva declares that "fears have been expressed in many quarters that this system is, in practice, one of forced labor. This seems a possible danger not only because chiefs are already accustomed to levy forced labor for roads, but also in view of the fact that it is estimated that the scheme will necessitate the employment of 300,000 to 350,000 native laborers, while the total population of the country is reported to be only one and a half million."³²

In reply it is pointed out that by October 1928 the Firestone Company had planted only about 30,000 acres of rubber and had employed only about 10,000 natives.³³ It is declared that natives have been more than willing to accept Firestone's employment because they are well-treated and receive regular pay, in contrast to the conditions which prevail under government employment. Finally, it is said that the Firestone

^{30.} An indirect form of compulsion also is the penal sanction in labor contracts—i. e., the punishment of desertion from employment by imprisonment. Such a system has often resulted in peonage or debt slavery. The International Labour Office considers this question as falling in the category of indentured labor. Consequently it is not discussed here except in connection with the mandate system. Cf. below, p. 419.

^{31.} Cf. the Faulkner interview, *The World* (N. Y.), August 11, 1929.

^{32.} I. L. O., *Forced Labour*, p. 227.

^{33.} *Annual Message of His Excellency, Charles Dunbar Burgess King*, October 18, 1928, p. 62. It is understood that approximately 50,000 acres will have been planted by 1930.

Company does not require natives to sign labor contracts, and that they may terminate their employment at will. Moreover, it is stated that the Firestone Company has not paid a fee to the government bureau for nearly three years, but instead recruits its labor directly.

On August 10, 1929 a Washington dispatch to the *New York Times* stated that it was understood that recently the State Department had sent a strong note to the Liberian government in regard to labor conditions. Whether or not as a result of a suggestion from the United States, the Liberian government announced through the State Department and at the Sixth Committee of the League Assembly that it would appoint a commission, one member to be appointed by the Liberian government, another by the United States, and a third by the League of Nations,³⁴ to investigate these charges of forced labor.

In a note to the Secretary-General of the League on September 16, the Liberian government declared that it had been "the victim of a systematically organized campaign to persuade public opinion, and especially Members of the League of Nations, that slavery and forced labor are still rife in Liberia. . . ."³⁵ The policy of the government had always been to condemn slavery and forced labor "in all its forms." On the other hand, it would easily be understood that "an inveterate scourge cannot be extirpated root and branch in the space of a few years. However, owing to the energetic measures taken by [the Liberian] government during the last twenty-five years, the practice of slavery and forced labor has, little by little, been considerably diminished, and it can be asserted today that slavery and forced labor are no longer practiced in principle as a normal social system in Liberia."

"In order to enlighten the public," the Liberian government had decided to ask for an International Enquiry Commission to conduct a four-months' investigation. Both the United States and the League Council agreed to name representatives to this commission, and to pay their expenses. On December 19, 1929 the State Department an-

^{34.} *New York Times*, August 11 and September 7, 1929.

^{35.} League of Nations, Council Document, A.81.1929.VI.

nounced the appointment of Dr. Charles S. Johnson, a Negro professor at Fisk University, to serve as its representative upon this commission. The next day the League Council announced the appointment of Judge M. S. Meek of Norway as its representative.³⁶ Since the Liberian representative will be a Negro, the white member of the commission will be in the minority. Although the Liberian government announced in August that this commission would be appointed, the commission had not left for Liberia by the end of the year. In the meantime, the Liberian government had an opportunity to bring about reforms, provided it deemed such reforms to be necessary.

ETHICAL AND SOCIAL ASPECTS OF FORCED LABOR

From the ethical standpoint, compulsory labor for public purposes has generally been placed in a different category from such labor for private employers. Although some business men and officials justify the latter type of forced labor on the ground that it is desirable to teach the native to work, the great preponderance of official and unofficial opinion seems to condemn compulsory labor of a dependent population for the benefit of European individuals, on the ground that such labor is analogous to slavery. Compulsory labor, whether for public or private purposes, may have certain harmful effects upon the native population if it involves transporting men in large numbers and long distances from their homes. These effects have been stated in the report on forced labor by the International Labour Office to be as follows:

"In addition to the effects upon individuals of the imposition of regular labor to which they are unaccustomed—effects which are frequently disastrous unless prolonged gradual habituation is possible—there are grave social dangers. Whenever large bodies of workers are removed from their villages and their families and herded together for some large constructive work, a number of intensely important problems arise. Away from the milieu to which they are accustomed, their morale rapidly degenerates. The absence of their wives tends to encourage abnormal sexual habits; the cessation of the tribal authority which they respect and which provides the sanctions of their code of conduct leaves them unguided amid strange circumstances; they lose their own standards without gaining new

ones; their "religio" fails them. They suffer severely from climatic changes, possibly even more severely from changes of diet. Usually they are excessively liable to attack by diseases with which they come into contact for the first time, more especially tuberculosis and venereal disease. In close contact with each other, the onset of highly infectious disease decimates them. In recent cases where statistics have been made available, appalling rates of mortality, up to 10 and even 12 per cent per annum, have been recorded.

"These effects fall for the most part upon the workers concerned themselves; there are other results which affect the community from which they come and of which account must be taken. Those due to their absence include at times a lack of workers for the needs of tribal or village cultivation, with resultant famine. The effects on family life of the absence of the adult males have been frequently noted. The return of the workers to their villages at the termination of their period of service may introduce there the ills from which they suffer. The dissemination of syphilis, hookworm, yaws, tuberculosis, and other maladies is frequently attributed in medical reports to the going and coming of workers.

"Compulsion for labor of this type further appears to involve certain measures of which the moral effect upon the natives concerned cannot be otherwise than bad. The workers are sometimes moved to the workplaces under armed guard; there is evidence that they are at times roped or chained together to minimize the possibilities of escape; escaping workers run the risk of being shot down; armed guards are necessary at the workplaces, and so on.

"Under these circumstances, to speak of the moral or educative value of forced labor seems mockery. Forced labor is in fact, from this point of view, a blind alley, the forced worker is not likely to acquire a taste for work; on the contrary, all the associations of compulsion tend to give him an active distaste for it."³⁷

Compulsory labor, as a rule, is also less efficient than voluntary labor; and when government officials get in the habit of imposing forced labor, they have a tendency to rely upon it exclusively for government needs. Moreover, when compulsion is used, employers tend to be wasteful of labor. Finally, compulsory labor tends to discourage habits of native industry, since it associates labor with a sense of oppression.³⁸

Because of the idealist objections to any form of servitude which resembles slavery, and also because forced labor in many cases has resulted in excessive death rates and in

³⁷. I. L. O., *Forced Labour*, p. 260-61.

³⁸. Cf. Colonial Office dispatch of February 6, 1925, Cmd. 2464; Buell, *op. cit.*, Vol. I, p. 372.

highly unsatisfactory social conditions generally, a widespread demand for the abolition of forced labor, at least for the benefit of private employers, has arisen. This demand has been partly humanitarian. It has also been partly inspired by enlightened self-interest. Many governments and employers are coming to take the view that in the long run the economic development of the tropics will depend upon a growing and contented native population; and that any policy which prevents the population from increasing and tends to reduce it to a stage of semi-serfdom will mean social and economic stagnation.

Fears have been expressed that if the native populations in colonial areas are mistreated, their desire to revolt against their European rulers will be increased. The program of the Third International of Moscow, adopted in September 1928, stated that the

task of Communism was to carry on propaganda "against the imperialist maltreatment of enslaved peoples and races. . . ."³⁹

In November 1929, 12,000 natives in Durban, South Africa refused to pay their poll taxes. The government finally raided the native compounds and made 600 arrests. The Minister of Justice of the South African government declared that this anti-European movement was inspired by the Third International from Moscow.⁴⁰ Authorities have also feared the spread of Communism among the natives of the Dutch East Indies.⁴¹ While there are those who advocate repressive measures, others believe that the best defense against the spread of Communism is a policy of advancing native interests. Since forced labor is one of the heaviest burdens imposed upon native populations, an international demand for its abolition has been made.

FORCED LABOR AND THE MANDATES SYSTEM

The first attempt at the international regulation of forced labor was made in the so-called mandates system. The administration of a million square miles of territory, divided into 14 "mandates" and lying for the most part in the tropics, is under the supervision of the Council of the League of Nations, acting upon the advice of the Permanent Mandates Commission. In the African and Pacific mandates (called B and C mandates) the governments are prohibited from using compulsory labor except for "essential public services."⁴² Such compulsory labor must be adequately remunerated. There is nothing in the text of the mandates which expressly prohibits compulsory labor on the part of women or children; or which states that compulsory labor may be imposed only after recourse to voluntary labor has failed. The mandates are silent, moreover, as to the term for which forced labor may be exacted.

Nevertheless, the Mandates Commission has attempted to reduce to a minimum the

use of compulsory labor for essential public purposes. Perhaps the best illustration of the procedure of the commission may be found in the case of the Midlands Railway in the French Cameroons. In 1921 the local government decided to extend this railway from Makak to Yaoundé—a distance of about 83 miles. In order to obtain the necessary labor, the government resorted to compulsion—10,530 men being conscripted in 1926. Many charges were made that the men were obliged to work under oppressive circumstances and that the death rate was high. Natives remaining at home were compelled to grow food for the railway laborers, and women and children were obliged to carry this food long distances to the labor camps. Thus, while the construction of the railway might have been an "essential service," many observers believed that the government was employing methods which imposed serious injuries upon the native population.

The Mandates Commission asked no questions about the railway until 1924. Then it asked for further information concerning recruiting and living conditions among the workers.⁴³ At the sixth session it "urgently"

39. W. R. Batsell, *Soviet Rule in Russia*, p. 790.

40. *Manchester Guardian Weekly*, November 22, 1929.

41. G. Angoulvant, *Les Indes Néerlandaises*, p. 89.

42. The B mandates declare that the mandatory powers "shall prohibit all forms of forced or compulsory labor, except for essential public works and services, and then only in return for adequate remuneration." In the C mandates "no forced labor is permitted, except for essential public works and services and then only for adequate remuneration."

43. League of Nations, Permanent Mandates Commission, *Minutes of the Fourth Session*, p. 18; "Report to the Council on the Fourth Session," p. 6.

renewed "its request for exact and complete information." It added that in the light of information contained in the last report the mandatory power should be asked to "consider the possibility of taking effective measures to remedy this state of things. . . ."⁴⁴

Following these inquiries the Cameroons administration brought about further reforms. Nevertheless, at its ninth and eleventh sessions the commission again made inquiries, which indicated that some members were not yet satisfied. At the eleventh session in 1927 it was pointed out that in certain colonies strict regulations limiting the powers of Governors in regard to forced labor existed, but that French Governors apparently had unlimited powers in this respect.⁴⁵

Recruiting for the Cameroons railway finally ended in January 1928. Thus, during the construction period, the Mandates Commission did not exercise any effective supervision over labor conditions; but its influence may have prevented conditions from becoming worse.

Upon several occasions the commission has indicated its appreciation at the reduction of compulsory labor to a minimum by mandatory administrations.⁴⁶

REMUNERATION FOR FORCED LABOR

A number of difficulties which the Mandates Commission has not solved have arisen in regard to the provision that all compulsory labor shall be "adequately" remunerated. It is the practice in certain French mandated territories to exact a labor tax called the prestation, and in certain British mandated territories to exact a number of days of unpaid labor for communal purposes. Do these practices violate the provision in the mandates that compulsory labor for public purposes shall be remunerated? The question has been discussed at a number of

44. P. M. C., *Minutes of the Sixth Session* (1925), p. 175.

45. P. M. C., *Minutes of the Eleventh Session* (1927), p. 28; cf. also *Minutes of the Ninth Session* (1926), p. 60 ff. For conditions on the Brazzaville railway, cf. p. 412.

46. For French Togo, cf. P. M. C., *Minutes of the Ninth Session* (1926), p. 218; for Ruanda-Urundi, cf. *Minutes of the Twelfth Session*, p. 148; in 1929 members of the Mandates Commission commended the Tanganyika government for having had recourse to compulsory labor for public purposes only twice in the previous year. This was exclusive of portage (P. M. C., *Minutes of the Fifteenth Session*, p. 109, 122). The Tanganyika administration has established a Labor Department which supervises the employment of natives by Europeans (Tanganyika Territory, Labour Department, *Annual Report*, 1927).

sessions of the Permanent Mandates Commission, one member expressing the view that all forms of unpaid compulsory labor are illegal.⁴⁷ The commission decided, however, not to pass upon the question until after the whole subject of compulsory labor should have been dealt with by the International Labour Organization.⁴⁸

COMPULSORY CULTIVATION

Similarly the commission has failed to decide whether or not the practice of compulsory cultivation, whereby natives are required to grow foodstuffs for their own use or for sale to Europeans, is in violation of the mandate. Some members believe that such compulsion should be used only to avert a famine, and not to supply export needs.⁴⁹ While the Mandates Commission has failed to pass on the question, the Sixth Committee of the Seventh Assembly of the League and the 1929 International Labour Conference refused to recognize the principle of compulsory cultivation as a measure of education or social welfare.⁵⁰

COMPULSORY LABOR FOR PRIVATE PURPOSES

The Mandates Commission has examined in detail the legislation of mandated territories to determine whether or not they authorize compulsory labor for private purposes.⁵¹ It has also inquired into actual practice. Perhaps the sharpest comment of the commission was in regard to recruiting in New Guinea under Australian mandate. In 1929 there was read into the records of the commission a statement of the Australian Missionary Conference to the effect that "already the demand for native laborers is such a great one that recruiting is becoming

47. P. M. C., *Minutes of the Seventh Session* (1925), the Van Rees memorandum, p. 154; cf. also *Minutes of the Tenth Session* (1926), the Grimshaw memorandum, p. 118, 164.

48. P. M. C., *Minutes of the Eleventh Session* (1927), p. 18. The questionnaire of the International Labour Conference (Fourteenth Session, 1930, p. 57) referred to below asks (Par. 12): "Do you consider that, where forced or compulsory labor is demanded as an equivalent to or a substitute for a tax, the practice should be abolished as soon as possible. . . ?" The charge has been made that in the French Cameroons, a mandated territory, the restrictions imposed by law on the use of prestation labor, in regard to the period and the type of work for which it may be employed, have not been observed (Buell, *op. cit.*, Vol. II, p. 329). French representatives deny these charges. They declare that sometimes men are retained beyond the period fixed for prestation labor but state that in such cases they receive wages or a ration in kind equivalent to wages (*Minutes of the Fifteenth Session*, 1929, p. 148). Cf. p. 412.

49. P. M. C., *Minutes of the Twelfth Session* (1927), p. 163.

50. Cf. footnotes 73 and 87.

51. P. M. C., *Annexes to the Minutes of the Third Session* (1923), the Grimshaw memorandum, p. 262.

a heavy burden on the people. One recruiting vessel follows the other. By means of enticing, threatening and deceiving, boys are led to follow the recruiter. . . . In addition to this, patrol officers go and requisition the boys whom the recruiters were unable to persuade. . . . Some weeks ago, approximately 400 natives were in this manner taken out of Azera and at present the same is taking place north of Finschhafen. For the sake of the gold-fields, hundreds of natives are sacrificed." Commenting upon this statement in the presence of a representative of the Australian government, Mr. H. A. Grimshaw (the representative of the International Labour Organization on the commission) declared that if these conditions were correctly described it would become "nothing less than a system of forced labor." In its report to the Council the commission declared that it attached "particular importance to receiving full information regarding the action (if any) which the Australian Government proposes to take. . . ." in regard to putting an end "to irregularities in recruiting. . . ."⁵²

The commission has also asked questions to ascertain whether or not any indirect pressure is brought to bear upon natives by the administration to induce them to enter private employment.⁵³ On one such occasion, at the twelfth session, the representative of the Belgian mandated territory of Ruanda-Urundi declared that the government did not carry on any recruiting or "solicitation" in connection with laborers going from Ruanda-Urundi to the Katanga mines in the Belgian Congo. While the government informed the native that a particular recruiter was worthy of confidence, this did not necessarily mean that pressure was placed upon him.

THE PENAL SANCTION

In May 1928 the International Bureau for the Protection of Native Races, in a petition to the Mandates Commission, raised the question of whether the penal sanction in labor contracts—i. e., the provision making desertion from employment a criminal

52. P. M. C., *Minutes of the Fifteenth Session* (1929), p. 51. 293. In New Guinea a large number of European plantations are found which demand native labor. Laborers in New Guinea receive only 5 shillings a month. Cf. F. W. Eggleston, *The Australian Mandate for New Guinea*, 1928, p. 77 ff.

53. P. M. C., *Minutes of the Twelfth Session* (1927), p. 144.

offense—was in conformity with the provision of the mandate prohibiting forced labor.⁵⁴

The British government, in reply to this question, declared that legislation had recently been enacted in Tanganyika mitigating the severity of the penal sanction. It also quoted a statement of the Governor that a criminal punishment for desertion could not "endure indefinitely," but at present he was not prepared to recommend that any drastic steps should be taken to abolish it.⁵⁵

The Mandates Commission has not expressed an opinion on the legality of the penal sanction, although it noted with satisfaction its abolition in Western Samoa, and expressed the hope that the administration of Nauru might follow this example.⁵⁶

CONSERVATISM OF THE MANDATES COMMISSION

These examples illustrate the reluctance of the Permanent Mandates Commission to interpret the compulsory labor provisions of the mandates. It has made no pronouncement yet as to whether or not the terms of the mandates have been violated by the system of unpaid compulsory labor in the British mandated territories, by the French labor tax, by the system of compulsory service for chiefs, by compulsory cultivation or by the penal sanction in labor contracts. The Mandates Commission has not recommended the imposition of a time-limit upon the use of compulsory labor for essential purposes, nor has it made any ruling in regard to the compulsory employment of women and children.⁵⁷ At the same time, the commission has repeatedly asked questions as to the expediency of certain practices which, although they may be legal under the mandate system, do not conform to the best colonial practice. Unless the commission takes more definite action soon, it is possible

54. This was one of the number of questions, based upon Buell's *Native Problem in Africa*, raised by the bureau (P. M. C., *Minutes of the Fifteenth Session*, 1929, p. 242).

55. P. M. C., *Minutes of the Fifteenth Session* (1929), p. 245. The new legislation provided that arrests for desertion could not be made by the police except upon a warrant issued by a magistrate at the request of the employer; it also provided that imprisonment for desertion could be inflicted only in case the deserter failed to pay a fine.

56. P. M. C., *Minutes of the Fifth Session* (1924), p. 193, 195; *Minutes of the Ninth Session* (1929), p. 15, 20. M. Van Rees of the commission declares that nothing in the mandate forbids the penal sanction. The late Mr. Grimshaw declared, however, that it was "universally recognized that the indentured labor system contained some elements of compulsion" (P. M. C., *Minutes of the Fifteenth Session*, 1929, p. 51, 249).

57. For the employment of women in the French Cameroons, cf. Buell, *op. cit.*, Vol. II, p. 327.

that, as a result of the work of the International Labour Conferences, some colonies will have accepted more far-reaching international limitations upon compulsory labor than exist in the mandated territories.⁵⁸ It must not be forgotten that in addition to being bound by provisions prohibiting compulsory labor the mandatory powers are also

obliged "to promote to the utmost the material and moral well-being and the social progress" of the inhabitants. It is possible for the Mandates Commission to invoke this provision in order to press for the elimination of questionable labor practices, even if the latter are not specifically banned by the other provisions of the mandates.

THE SLAVERY AND FORCED LABOR CONVENTION

It is not only in the case of mandated territories that the League of Nations has made provision for the protection of subject peoples; Article 23 of the Covenant obligates League Members generally to "secure just treatment of the native inhabitants of territories under their control." In 1922 the Assembly passed a resolution expressing the hope that all States might treat minorities at least as well as was required of the countries actually bound by minority treaties. It is argued that Members of the League should likewise be urged to treat their colonial populations as well as mandatory powers are required to treat their wards.⁵⁹

One of the most obvious injustices in the colonial world is that of slavery. Acting under Article 23 of the Covenant, the 1923 Assembly asked the Council to establish a body to investigate the slavery question.

Some members of the Council believed that for financial and other reasons the Mandates Commission should supervise the slavery investigation. The idea was opposed, however, by the French, British and Belgian delegates,⁶⁰ who apparently did not wish to extend the powers of this body. The Council finally decided to ask the League Secretariat and the International Labour Office to appoint eight experts to carry out the investigation.⁶¹ These experts consti-

tuted what was called the Temporary Slavery Commission.

TEMPORARY SLAVERY COMMISSION

At the fourth and fifth Assemblies the Belgian representative insisted that the Slavery Commission should use only official information. He declared that "the League was a league of States; private individuals and societies ought not, as a rule, to interfere directly with its activities."⁶² Nevertheless, a resolution of the fourth Assembly authorized the commission to obtain information not only from governments but also, if necessary, from individuals and organizations whose competence and reliability were recognized. The Slavery Commission finally decided that all communications accepted from organizations should be forwarded to the government concerned for its comments.⁶³

At its first session, in July 1924, the commission had to decide whether to confine its investigations to slavery, strictly defined, or whether to include compulsory labor. The commission decided in favor of the latter alternative, since compulsory labor was closely linked up with slavery.⁶⁴ This decision was approved by the Council, while the fifth Assembly, if "with great hesitation,"⁶⁵ also approved the procedure and program of the commission.

In its final report to the Council, the Temporary Slavery Commission made two suggestions in regard to compulsory labor: (1) that in imitation of the provisions in the B and C mandates, such labor be limited to essential public purposes and then only in

58. Cf. p. 423.

59. Cf. remarks of Mr. Buxton, Records of the Fifth Assembly, *Minutes of the Sixth Committee*, Spec. Supp. No. 29, p. 14.

60. League of Nations, *Official Journal*, February 1924, p. 331. During the Fifth Assembly, M. Freire d'Andrade declared that the Mandates Commission "must necessarily act with the greatest prudence and not even appear in any way to interfere in the internal affairs of the Colonial Powers." Records of the Fifth Assembly, *Minutes of the Sixth Committee*, Spec. Supp. No. 29, p. 14.

61. The International Labour Office named Mr. H. A. Grimshaw, who had represented it on the Mandates Commission; the Secretariat named three other members of the Mandates Commission—M. Freire d'Andrade, Sir Frederick (now Lord) Lugard, and M. Van Rees. It also named M. Bellegarde of Haiti, M. Delafosse of France, Commandant Roncagli of Italy, and M. Gohr of the Belgian Colonial Office, who was elected chairman.

62. Records of the Fifth Assembly, *Minutes of the Sixth Committee*, Spec. Supp. No. 29, p. 10; cf. also Records of the Fourth Assembly, Spec. Supp. No. 19, p. 26.

63. "Report of the Temporary Slavery Commission," League of Nations, *Official Journal*, October 1924, p. 1396.

64. Cf. T. S. C., *Minutes of the First Session* (1924), p. 14.

65. This was M. Freire d'Andrade's phrase. T. S. C., *Minutes of the Second Session* (1925), p. 7.

return for adequate remuneration;⁶⁶ (2) that forms of "direct or indirect compulsion the primary object of which is to force natives into private employment are abuses."⁶⁷

The commission debated the question of whether or not to recommend the conclusion of an international convention on slavery and forced labor. Some members opposed the suggestion because of the existence of the Saint-Germain convention of 1919, which would be revised ten years after ratification. It was pointed out, however, that this convention applied only to Africa and that it did not deal in detail with the problems of slavery and forced labor.

By a vote of five to three, the commission decided to recommend the conclusion of a slavery convention.⁶⁸

THE ACTION OF THE ASSEMBLY

The Council then submitted the final report of the Slavery Commission to the Sixth Assembly.⁶⁹ Here Viscount Cecil of Chelwood, representing the British government, submitted a draft resolution and protocol relating to slavery and forced labor. As passed by the subcommittee, the proposal did not, however, go as far as the compulsory labor provisions in the mandates. It authorized compulsory labor for "public purposes" and even for private purposes when the case was exceptional and temporary and did not involve the removal of laborers from their usual place of residence. The proposal did not require that forced workers be remunerated either for public or for private purposes. The conservative nature of these proposals was defended by Viscount Cecil on the ground that "it was better to proceed a little distance with se-

66. It declared that States should remain free to define what they understand by "compulsory labor" and by "essential public works" (T. S. C., *Report of the Chairman*, 1925, p. 13). In its report the commission also dealt with the status of slavery, slave-raiding and similar acts, slave trade, slave dealing, practices restrictive of the liberty of the person, such as pledging and adoption, domestic or predial slavery, and the transition from servile or compulsory labor to free wage labor or independent production.

67. "The Commission considers also that indirect or 'moral' pressure, if exercised by officials to secure labor for private employment, may, in view of the authority of such officials over the minds of natives, be in effect tantamount to compulsion and call therefore for prudence on the part of the Administration." *Ibid.*

68. T. S. C., *Minutes of the Second Session* (1925), p. 93. In a covering letter to the Council, M. Gohr stated that "in case the League of Nations should consider useful an international convention on slavery," the commission, "the majority of which believes such a convention to be desirable," was of the opinion that it should deal with the suggestions mentioned in the report (*Report of the Chairman*, cited, p. 2).

69. League of Nations, *Official Journal*, October 1925, p. 1305.

curity than to try to go a great distance with insecurity."⁷⁰ The Spanish delegate attacked this reasoning on the ground that the object of the draft "appeared to be to countenance forced labor, which up to the present had been condemned by the League of Nations." Norway, New Zealand and Canada sustained this point of view. Australia, however, favored the British position. As a result of the debate, the Sixth Committee amended the proposal so as to require remuneration in case of forced labor for private purposes.

ARTICLE 5 OF THE SLAVERY CONVENTION

The draft convention was then sent to the plenary Session of the Assembly. This body asked the Council to communicate the draft to the States for their comments in order that a final convention might be signed at the next Assembly.⁷¹ The seventh Assembly opened the Slavery Convention for signature.⁷² The provision in the Slavery Convention relating to forced labor is as follows:

"Article 5. The High Contracting Parties recognise that recourse to compulsory or forced labor may have grave consequences and undertake, each in respect of the territories placed under its sovereignty, jurisdiction, protection, suzerainty or tutelage, to take all necessary measures to prevent compulsory or forced labor from developing into conditions analogous to slavery.

"It is agreed that:

"(1) Subject to the transitional provisions laid down in paragraph (2) below, compulsory or forced labor may only be exacted for public purposes.

"(2) In territories in which compulsory or forced labor for other than public purposes still survives, the High Contracting Parties shall endeavor progressively and as soon as possible to put an end to the practice. So long as such forced or compulsory labor exists, this labor shall invariably be of an exceptional character, shall always receive adequate remuneration, and shall not involve the removal of the laborers from their usual place of residence.

"(3) In all cases, the responsibility for any recourse to compulsory or forced labor shall rest

70. Records of the Sixth Assembly, *Minutes of the Sixth Committee*, Spec. Supp. No. 39, p. 15, 28.

71. For the comments of the governments, cf. League documents A.10.1926.VI., A.10(a).1926.VI., and A.10(b).1926.VI.

72. In its report to the seventh Assembly the Sixth Committee explained that the convention did not require compensation for labor for public purposes because of the existence of labor taxes. Nevertheless, the commission was "strongly of opinion that such remuneration should as a general rule be paid." "Records of the Seventh Assembly," *Plenary Meetings*, Spec. Supp. No. 44, p. 417.

with the competent central authorities of the territory concerned."

According to Viscount Cecil, under this provision "no new cases of forced labor for private purposes should, under any circumstances be admitted. Only in those cases where it already exists can it be treated with this kind of transitory toleration until steps can be effectively and justly taken to put an end to it."⁷³ In addition, the seventh Assembly passed resolutions: (1) asking the Council to publish an annual document summarizing the laws enacted under the convention; (2) stating the opinion that as a rule forced labor for public purposes should not be utilized unless it is impossible to obtain voluntary labor and that such labor should receive adequate remuneration; (3) asking the Council to inform the Governing Board of the International Labour Office of the adoption of the Slavery Convention and drawing the attention of the Board to the importance of the work in regard to forced labor undertaken by that office.⁷⁴

THE INTERNATIONAL LABOR CONFERENCE AND FORCED LABOR

The Paris peace treaties provided for the establishment of an International Labour Organization, composed of an International Labour Office at Geneva, under the control of a Governing Body, and an annual International Labour Conference. Each Member State is represented at these conferences by four delegates, two representing the government, one the employees, and one the employers. The purpose of these conferences is to formulate draft conventions and recommendations in regard to labor questions. The first step in formulating a convention is taken by the International Labour Conference, when it draws up the general lines

73. *Ibid.*, p. 132. During the subcommittee debates the Belgian delegation proposed an amendment authorizing compulsory cultivation. The committee rejected it on the ground that it "might lead to grave abuses of exactly the type which the Convention itself was designed to prevent or suppress" (Records of the Seventh Ordinary Assembly, *Plenary Meetings*, 1926, Spec. Supp. No. 44, p. 417). During the debates in the Sixth Committee of the sixth Assembly, Dr. Nansen urged the insertion of a clause granting the World Court jurisdiction in the case of disputes arising out of the application of the convention. M. Freire d'Andrade opposed such a suggestion. The Slavery Convention contained only general principles, and he did not see how the World Court, whose competence was mainly legal, could intervene. For example, could one power appeal to the Court because it thought that another power gave a different interpretation of "public purposes" from its own? Any such proposal, in his opinion, would justify the intervention of a power or the Court in the internal affairs of another power and this principle he could not accept. He could not agree that the Court could "supervise the execution of the Protocol by deciding whether certain methods of colonial ad-

ADHERENCE OF THE UNITED STATES

The Slavery Convention was signed by 36 governments and was adhered to by the United States, subject to the reservation "that the Government of the United States, adhering to its policy of opposition to forced or compulsory labor except as a punishment for crime of which the person concerned has been duly convicted, adheres to the Convention except as to the first subdivision of the second paragraph of Article five." This subdivision sanctions the transitional use of forced labor for private purposes.⁷⁵ By September 1929 the convention had been ratified by the following governments:⁷⁶ Australia, Austria, Belgium, British Empire, Bulgaria, Canada, Denmark, Ecuador, Egypt, Estonia, Finland, Germany, Haiti, Hungary, India, Iraq, Italy, Latvia, Monaco, the Netherlands, New Zealand, Nicaragua, Norway, Portugal, Spain, Sudan, Sweden, the Union of South Africa, and the United States—a total of 29. Of these, nine States adhered to the convention.

THE INTERNATIONAL LABOR CONFERENCE AND FORCED LABOR

of a questionnaire to be addressed to the governments which are members of the organization, asking them if they favor a convention on the subject and ascertaining the principles to be embodied therein. If such a convention is favored, the Labour Office prepares a draft convention, based on the replies to the questionnaire, which is discussed at the next International Labour Conference. If the draft convention receives a two-thirds vote, it is open to ratification by governments.

Under Article 421 of the Treaty of Versailles, members of the International Labour Organization promise to apply the labor

ministration were or were not the best suited to secure the objects of the Protocol. Moreover, the Court in that case would have to organize a colonial enquiry and investigation section...." (Records of the Sixth Assembly, Spec. Supp. No. 39, p. 35.) The final convention confers the customary jurisdiction upon the World Court, but according to the Sixth Committee this "imposes no new obligations on the Members of the League of Nations which have signed the optional clause of the Statute of the Permanent Court of International Justice" (Records of the Seventh Assembly, Spec. Supp. No. 44, p. 417).

74. Cf. p. 423.

75. U. S. Department of State, *Treaty Series*, No. 778. Cf. p. 421.

76. Apparently as a result of this convention, a number of governments, such as Abyssinia, Sierra Leone, parts of India, Portuguese East Africa and Angola, have promulgated new legislation in regard to slavery, the slave trade and forced labor. Cf. "The United States and the Saint Germain Treaties," Foreign Policy Association, *Information Service*, Vol. IV, No. 22, p. 435.

conventions they have ratified to their colonies, protectorates and possessions, (1) except where, owing to local conditions, a convention is inapplicable, or (2) subject to such modifications as may be necessary to adapt the convention to local conditions. Hitherto there have been only a few cases in which labor conventions have been applied to colonies, apparently because the conventions so far have been aimed to meet conditions in more developed countries. In 1922 the Governing Body of the International Labour Office asked the Diplomatic Division of the Labour Office to collect information on native labor questions, and in 1926 it established a Native Labour Section, under the direction of the late Mr. Grimshaw. As the resolution of the 1926 Assembly implied, it was believed that while the League might define general principles as in the Slavery Convention, the International Labour Office was best fitted to work out the details of any forced labor agreement.

I. L. O. COMMITTEE ON FORCED LABOR

In May 1926 the Governing Body appointed a Committee of Experts on Native Labour. This committee decided to study first the question of compulsory labor, and then the question of labor contracts. At the first session of this committee (July 1927) an exhaustive draft report prepared by the Native Labour Section of the International Labour Office was examined. This report dealt with the law and practice relating to forced labor, the effects of such labor and the necessity for regulation. Chapter VII laid down certain principles which it was hoped governments might adopt. The Committee of Experts⁷⁷ discussed this report, and after considerable alterations finally approved the principles set out in Chapter VII.

These principles may be summarized as follows:

I. Criteria Justifying Recourse to Forced Labor, and the Authority Responsible for its Imposition.

The necessity in any particular case of recourse to forced labor should be judged, it was agreed, by the following criteria:

1. The necessary and public character of the service rendered. . . .

77. I. L. O., *Forced Labour*, p. 5.

2. Its actual or imminent necessity.
3. The impossibility of obtaining voluntary labor.
4. That work which involves the use of forced labor should only be undertaken after consideration whether it would lay too heavy a burden upon the present generation.

It was also agreed that in all cases responsibility for any recourse to forced labor should rest with the competent central authorities of the territory concerned.⁷⁸

II. Forced Labor for General Public Purposes.

The committee recognized that cases of emergency, such as fire, flood and famine, justified recourse to forced labor at the discretion of the administration. As far as important public works, such as railway construction, are concerned, the committee believed the following safeguards should be established: that women, children, the aged and the physically unfit should not be requisitioned; that adult males should be medically examined beforehand; that from any given community there should not be taken for forced labor more than a certain proportion of the resident adult male population;⁷⁹ that while under compulsory employment the laborers should be given periodic medical examinations; that the place of work should be adequately equipped with medical services; that suitable food and housing should also be provided; and that when natives are transferred under compulsion to work in a district with a radically different climate, all possible measures to mitigate the effect of the change should be taken.

Finally, it was declared that certain guarantees as to the length of compulsory service should be given.⁸⁰ By a vote of five to three, with three abstentions, the Committee of Experts agreed that the period of compulsory forced labor for essential public purposes should not normally exceed 60 days in the year, and that in cases where labor is to be brought from a considerable distance, it should not exceed six months; that the normal working day should not ex-

78. As in the Slavery Convention, p. 421.

79. I. L. O., *Forced Labour*, p. 263.

80. The report states that "between forced labor of unlimited duration and slavery there may be a legal distinction. But the practical analogy is very close." *Ibid.*, p. 267.

ceed eight hours and the working week 48 hours; that piece work should be encouraged; and that forced labor should be given "adequate remuneration." The committee defined this phrase to include the following principles: (1) wages should be paid at the ruling rate for similar work in the district; (2) the days necessary to travel to and from the working place should be paid for; (3) no deductions should be made for special food, clothing, or accommodations; and (4) overtime should be paid at rates higher than the normal rates.

Moreover, it was agreed that the administration should make provision for workmen's compensation in cases of incapacitation. The committee also believed that forced labor should be reduced to a minimum during those periods when natives plant their fields and that the administration should facilitate the return of forced workers to their homes at the end of the period of forced labor and that labor inspectors should see that regulations governing the conditions of forced labor are applied.

As far as portage is concerned, the committee believed that additional guarantees should be given. Thus the maximum load to be carried should be defined. Porters recruited by force should not be taken more than four days' march from their village. A man should not be compelled to act as porter more than 25 days a year, and this period should be deducted from the total fixed for forced labor. The administration should not furnish forced portage for private persons.

In regard to compulsory cultivation, the committee believed this should be permitted when cultivation is designed as a precaution against famine or a deficiency in food supplies. The food produced should remain the property of the producer.

III. Forced Labor for Local Public Purposes.

The committee declared that forced labor for local public purposes does not lead to the same social evils as forced labor transported a long distance. Nevertheless, to prevent abuse, it believed it desirable to define what was meant by "local" purposes. It declared that all minor services, such as keeping village paths clean, are normal obli-

gations of the village and are not in the same category as compulsion for local public works. When governments resort to compulsion for the latter purpose they should follow the general restrictions as to hours of labor, days of service and remuneration described above.⁸¹

IV. Forced Labor for Private Purposes.

The committee declared that "no Administration or other authority should by its legislation or other measures authorise forced labor for the benefit of private individuals, companies or other entities than the general community. Where such forced labor exists, every effort should be made to bring it to an end as soon as possible."⁸²

The committee also declared that the "Administration should not permit its officials to put constraint upon the populations under their charge to work for private employers." It failed, however, to adopt any such resolution as did the Temporary Slavery Commission,⁸³ pointing out the danger of having the administration give "encouragement" to natives to seek employment.

In addition to approving these and other principles, the committee at its first session adopted resolutions (1) asking that the International Labour Office publish complete information concerning native labor, (2) asking that the question of forced labor be considered by the International Labour Conference at an early date, and (3) declaring that in the opinion of the committee all forced labor should cease at the earliest possible moment.⁸⁴

At its second session, in December 1928, the Committee of Experts discussed a draft questionnaire, asking the governments whether or not the principles recommended by the committee should be adopted by the International Labour Conference.⁸⁵

THE 1929 CONFERENCE

The question of forced labor was placed upon the agenda of the International Labour Conference, which met in June 1929. The workers' delegates to this conference included natives from Tunis and the Dutch

81. These principles would seem to condemn the French prestation system; cf. p. 411.

82. Some members wished to abolish such forced labor at once. I. L. O., *Forced Labour*, p. 287.

83. Cf. footnote 67. Practically all the above principles were embodied in the final questionnaire.

84. I. L. O., *Forced Labour*, p. 307.

85. For the text of the draft questionnaire, cf. *Ibid.*, p. 297.

East Indies. The question of forced labor was discussed at two sittings, following which it was decided to refer it to a committee on forced labor.⁸⁶ The latter debated the draft questionnaire during eleven sittings, adopting it after a number of changes were made. Some of the changes seemed to strengthen the restrictions upon the use of forced labor.⁸⁷

During the committee debates, the workers' group moved a number of amendments which were not accepted. Consequently M. Léon Jouhaux, on behalf of the workers' group, presented a minority report to the plenary conference, declaring that while the aim of the organization should be the suppression of forced labor, the proposed questionnaire provided for a "kind of codification."⁸⁸ The workers' group demanded specifically: (1) an adapted form of the right of association for natives in the colonies—in its opinion an essential guarantee of protection against forced labor; (2) the 8-hour day and 48-hour week; (3) depreciation of resort to indirect means of forcing natives into employment, particularly by taxation; (4) abolition of forced labor on behalf of chiefs; and (5) the creation of a permanent committee on native labor in connection with the International Labour Office, which should study the annual reports of the powers relating to the application of the forced labor convention in accordance with Article 408 of the Treaty of Versailles. It was suggested that this committee should hear petitions from natives and others in regard to the observance of the forced labor convention.⁸⁹

This latter provision was opposed by the government delegates of Liberia (and Nicaragua), Great Britain and Portugal, on the ground that such a committee would "control the internal policy of a state."⁹⁰ Herr von Rechenberg of Germany declared that

86. International Labour Conference, *Provisional Record of the Twelfth Session*, No. 7, June 3, 1929.

87. Thus amendments were adopted to the effect that forced laborers should not be required to work underground, and that compulsory labor should be exacted only for the "important direct" interest of the community. It should not be imposed on a community as a form of "collective punishment." The Belgian attempt to have the principle of compulsory cultivation sanctioned was defeated. On the other hand, the provision for the 8-hour day and 48-hour week was stricken out on the ground that in tropical countries these restrictions were not imposed even for the benefit of voluntary labor. *Ibid.*, No. 20, June 15, 1929, p. XXV ff.

88. *Ibid.*, p. LXXII.

89. *Ibid.*, No. 22, p. 387.

90. *Ibid.*, No. 31, Speech of the delegate for Liberia and Nicaragua, p. 637.

"if it is meant to set up a Committee with powers similar to the Mandates Commission there would be little objection. . . ."⁹¹ The workers' group agreed to modify their proposal so as merely to create a permanent committee of experts on forced labor in connection with the Labour Office. The suggestion was thereupon carried by a vote of 59 to 49.⁹²

THE FORCED LABOR QUESTIONNAIRE

The questionnaire, as finally amended, which proposed the adoption of a convention thus narrowly circumscribing the use of forced labor, was adopted; and by a vote of 101 to 15 it was decided to place the question of forced labor on the agenda of the 1930 International Labour Conference. The questionnaire will now be sent to each of the governments for their observations. Upon the basis of their replies the International Labour Office will draft a convention which will be communicated to each government three months before the 1930 session. If this session adopts the convention,⁹³ it will then be open to ratification.

If a convention is adopted embodying the principles suggested in the draft questionnaire, compulsory labor for private purposes will become illegal, and compulsory labor for public purposes will be subjected to much more severe restrictions than exist in the mandated territories.

FRENCH OPPOSITION

Whether or not the leading colonial powers will ratify the labor convention is not known. Certain circles in France, for example, have expressed uneasiness at this movement. Various French Chambers of Commerce have passed resolutions condemning the proposed convention. *Le Temps* asks if "in these matters international control will not be more of a nuisance than of value." The rights of sovereignty, it warns, should not be infringed upon.⁹⁴ M. Alexandre Varenne has stated that "it is not

91. *Ibid.*, No. 23, p. 442.

92. *Ibid.*, No. 31, p. 554. The conference adopted the proposed amendment concerning the right of association, and the 8-hour day; and adopted an amendment tending toward the abolition of forced labor for chiefs.

93. For the leading articles of the draft questionnaire, cf. p. 426; also I. L. O., Fourteenth Session, 1930. *Forced Labour, Questionnaire I.*

94. It states that there should be no interference with the French prestation system or with the labor armies in Madagascar and French West Africa. "Le travail obligatoire aux colonies," *Le Temps*, May 28, 1929.

necessary for the League of Nations or anyone else to call the attention of France to these principles; France was the first to apply them. . . ." ⁹⁵ A former French Minister, M. Francois Marsal, recently declared at the *Union Coloniale* in Paris that the colonial work of France was "menaced" by Geneva, and that the declarations of principle made there were inspired by "covetousness." ⁹⁶ A writer in the French colonial journal, *L'Afrique Française*, declares that every colonial power desirous of safeguarding "its menaced sovereignty" should answer "No" to the 35 questions in the

draft questionnaire. He asserts that States who are jealous of the colonial powers have seized an opportunity of raising the colonial question at Geneva. The "most menaced" powers are Belgium, Spain, France and Portugal. ⁹⁷

A sarcastic view has been expressed by a Belgian colonial journal which asks if the International Labour Office will send a gendarme to each native tribe. ⁹⁸

If these comments reflect official views, it is by no means certain that the proposed convention on forced labor will go into effect.

APPENDIX

EXTRACTS FROM INTERNATIONAL LABOUR CONFERENCE QUESTIONNAIRE

1. Do you consider that the International Labour Conference should adopt a Draft Convention, the object of which is to suppress the use of forced or compulsory labour in all its forms?

If so, do you consider that a period of transition is necessary before such suppression can be fully carried out?

If you do not consider it possible to adopt a Draft Convention, the object of which would be to suppress the used of forced or compulsory labour in all its forms, or if you consider that suppression is possible, but that a period of transition is necessary:

Do you consider that the International Labour Conference should adopt a Draft Convention the object of which would be to limit and regulate the use of forced or compulsory labour?

2. Do you consider that such a Convention should be drafted in such a way that its ratification by a State should imply, for the colonies and protectorates of that State, the application of the Convention without the reserves or modifications provided for in Article 421 of the Treaty of Peace?

3. Do you agree with the following definition of forced or compulsory labour for the purposes of such a Convention:

"All work or service which is exacted from any person under the menace of any penalty for its non-performance and for which the worker does not offer himself voluntarily?" . . .

6 (a) Do you consider that the authority responsible for any recourse to forced or compulsory labour should be an authority of the metropolitan country, or, when that is not possible, the highest central authority in the territory concerned?

(b) Do you consider that, where higher authorities delegate to subordinate authorities the right of

authorising forced labour for local public purposes, this practice should cease? . . .

7. Do you consider that the competent authority, before permitting any recourse to forced or compulsory labour, except the compulsory labour mentioned in Question 12, should be satisfied:

(a) that the work to be done or the service to be rendered is of important direct interest for the community called upon to do the work or render the service;

(b) that the work or the service is of present or imminent necessity;

(c) that it has been found impossible to obtain voluntary labour for carrying out the work or the service by the offer of the rates of wages ruling in the area concerned for similar work or service; and

(d) that the work or service under consideration will not lay upon the present population concerned too heavy a burden, having regard to the labour available and its capacity to undertake the work?

8. Do you consider that in no case whatever should the competent authority impose or permit the imposition of forced or compulsory labour for the benefit of private individuals, companies, or other entities than the community?

Are you of opinion that where such forced or compulsory labour exists, every effort should be made to bring it to an end as soon as possible?

Are you further of opinion that a time limit for such abolition should be fixed, and if so, what time limit would you propose?

9. Do you consider that, where forced or compulsory labour is demanded by chiefs who exercise

95. *Comment Nous Comporter Envers les Populations Noires de Notre Domaine Africain*, Comité National d'Etudes Sociales & Politiques, p. 7.

96. Quoted in *L'Essor Colonial et Maritime*, July 11, 1929, p. 21. For Deputy Candace's attack, cf. *Journal des Débats*, December 20, 1929, p. 985.

97. He also states that "the prosperity of the United States depends upon the conquest of new markets for American products." He blames the American universities for preaching the ideal of international control. R. Millet, "L'internationalisation des colonies," *L'Afrique Française*, July 1929, p. 309.

98. "Commentaires," *L'Essor Colonial et Maritime*, June 27, 1929.

administrative functions in consequence of traditional rights, this practice should be abolished as soon as possible, and that, until it is abolished, Administrations should ensure that such labour should be directed to public purposes and that the conditions under which it is carried out should be regulated in the same manner as is work of a similar nature done under the compulsion of the administrative authority?

10. Do you consider that whilst it is the duty of officials of the Administration to encourage the populations under their charge to engage in some form of labour, they should not be permitted to put constraint upon them to work for private employers?

11. Do you consider that no concessions granted to individuals or companies should permit any form of compulsion for the obtaining of the products which such individuals or companies utilise or in which they trade; and that, where such concessions already exist, (a) they should not be renewed except in such a way as to terminate any arrangements of this kind, and (b) every effort should be made to change, in the same way and as early as possible, existing concessions which are not yet due for renewal?

12. Do you consider that, where forced or compulsory labour is demanded as an equivalent to or a substitute for a tax, this practice should be abolished as soon as possible, and that until it is abolished the competent authority should be satisfied:

(a) that the work to be done or the service to be rendered is of important direct interest for the community called upon to do the work or render the service?

(b) that the work or service is of present or imminent necessity?

(c) that the work or service under consideration will not lay upon the present population concerned too heavy a burden having regard to the labour available and its capacity to undertake the work?

(d) that the workers while performing their work remain in the neighbourhood of their homes?

(e) that the execution of the work or the rendering of the service shall be directed by the local authorities in accordance with the exigencies of religion, social life and agriculture?

13 (a). Do you consider that in any area where forced or compulsory labour still exists, complete and precise regulations should be adopted, in so far as this has not already been done, in regard to the organisation of this labour, and that such regulations should provide for the compiling and recording of statistics concerning it, in particular as regards the organisation of work and the hours of work and the method of payment of wages?

(b) Do you consider that in any territory where forced labour exists the legal provisions or admin-

istrative orders governing its application should be printed (and freely exhibited) by the competent authority in such one or more native languages as will convey its import to the workers concerned and the population from which the workers are to be drawn; and that copies of such printed matter should be made available, at cost price, to the workers or others?

(c) Do you consider that a definite procedure should be established to allow forced workers, as well as all other native workers, to present all their complaints relative to the conditions of labour to the authorities and to negotiate concerning them?

14. Do you consider that the duties of any existing labour inspectorate which has been established for the inspection of voluntary labour should be extended to cover the inspection of forced labour, and that, in the absence of such an inspectorate, other adequate measures should in all cases be taken to assure that the regulations governing the employment of forced labour are strictly applied?

15. Do you consider that the illegal exaction of forced labour should be punishable as a penal offence, and that the penalties should be really adequate?

16. Do you consider that only adult males of not less than 18 years of age should be called upon for forced or compulsory labour, subject to the following limitations and conditions:

(a) Prior determination by a Government medical officer that the persons concerned are not suffering from any contagious disease and that they are physically fit for the work required and for the conditions under which it is to be carried out;

(b) Exemption for persons already bound by a contract of employment;

(c) Exemptions for school teachers and pupils;

(d) The maintenance in each community of the number of adult able-bodied men indispensable to family and social life;

(e) Respect for conjugal and family ties?

17. Do you consider that from any given community no more than a fixed proportion of the resident able-bodied males should be taken at any one time for forced or compulsory labour which entails their sleeping away from their homes?

Do you consider that this proportion should be regulated according to the seasons and the work which must be done by the persons concerned on their own behalf in their locality, and, generally speaking, that the economic necessities of the normal life of the community in question should be respected? . . .

18. Do you consider that the normal maximum period for which any individual may be taken for forced or compulsory labour of all kinds should not exceed 60 days in any one period of 12 months, including the time spent in travelling to and from work,

or in exceptional cases where workers have to be brought from a considerable distance, 6 months in any one period of 24 months, it being understood that in this period will be included the time employed in the work contemplated in Question 12, and that any two such periods occurring in consecutive terms of 24 months should be separated by an interval of at least 3 months?

In cases where workers have to be brought from a considerable distance, do you consider that the individual worker who has served in any one year for a longer period than the normal maximum of 60 days fixed above, or than any lower maximum which may be fixed, should be exempt from further forced or compulsory labour for a number of years equal to the number of times the normal maximum which he has so served?

Do you consider that the normal maximum period for which any individual may be taken for the work or service contemplated in Question 12 should not exceed 30 days in any one period of 12 months?

19. Do you consider that forced workers should not, except in cases of special necessity, be transferred to districts where the food and climate differ so considerably from those to which they have been accustomed as to endanger their health?

Do you consider that in no case should the transfer of workers be permitted unless all necessary measures for the accommodation and health of the workers can be strictly applied?

When such transfer cannot be avoided, do you consider that, on competent medical advice, measures of gradual habituation to the new conditions of diet and of climate should be adopted?

Do you consider that, in cases where forced workers are required to perform regular work to which they are not accustomed, measures should be taken to assure their habituation to it, especially as regards progressive training, the hours of work and the provision of rest intervals, and the increase or amelioration of diet which may be necessary?

20. Do you consider that the normal working hours of forced workers should not exceed eight per day and forty-eight per week, and that the hours worked in excess of these should be remunerated at rates higher than the rates for the normal working hours?

Do you consider that a weekly day of rest should be provided for and that this day should coincide as far as possible with the day fixed by tradition or custom in the territories or regions concerned?

21. In the case of forced transport workers, do you consider that the normal daily journey should correspond to an average eight-hour working day, it being understood that account shall be taken not only of the distance covered, but also of the nature of the route, the season of the year, the weight to be carried and all other relevant factors, and that where hours of journey in excess of eight per day

are exacted they should be remunerated at rates higher than the normal rates?

22. Do you consider:

(a) that forced or compulsory workers, including transport workers, should in all cases be paid in cash at rates not less than those ruling for similar kinds of work either in the district in which they are employed or in the district from which they are recruited, whichever may be higher?

(b) that the wages should be paid to the workers individually and not to their tribal chiefs or other authorities?

(c) that the days necessary for travelling to and from the workplaces should be counted for the purpose of payment as working days?

(d) that deductions from wages should not be made either for the payment of taxes or for special food, clothing or accommodation supplied to the worker for the purpose of maintaining the worker in condition to carry on his work, nor for the supply of tools? . . .

25. When recourse is had to forced or compulsory labour for the transport of persons or goods (porters, boatmen, etc.) do you consider that the competent authority should promulgate regulations determining, *inter alia*, (a) only adult males, medically certified where medical examination is possible, to be physically fit, shall be employed on this work, (b) the maximum load, (c) the maximum distance from their homes to which these workers may be taken, (d) the maximum number of days per month or other period for which they may be taken, (e) the persons entitled to demand this form of forced labour and the extent to which they are entitled to demand it? . . .

26. Do you consider that recourse should be had to compulsory cultivation solely as a method of precaution against famine or a deficiency of food supplies, and always under the condition that the food or produce shall, in lieu of wages, remain the property of the individuals or the community producing it? . . .

27. Do you consider that "collective punishment laws" under which an entire community may be punished for misdemeanours committed by some of its members should contain no provision for forced or compulsory labour by the community as one of the methods of punishment?

28. Do you consider that forced labour should not be used for work underground?

29. Do you consider that it would be advantageous to create a permanent committee of experts on forced labour in connection with the International Labour Office?

Do you consider that the reports made in virtue of Article 408 on the Convention concerning forced labour should be sent to this committee?

Do you consider that this committee should be charged with the study of other problems created by forced labour?